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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances
Fourteenth session

Summary record of the 246th meeting*
Held at the Palais Wilson, Geneva, on Monday, 28 May 2018, at 10 a.m.

Chair: Mr. Huhle (Vice-Chair)

Contents

Meeting with States Members of the United Nations

Meeting with national human rights institutions

Meeting with non-governmental organizations and other stakeholders

* No summary record was prepared for the 245th meeting.

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In the absence of Ms. Janina, Mr. Huhle, Vice-Chair, took the Chair.

The meeting was called to order at 10.05 a.m.

Meeting with States Members of the United Nations

1. **The Chair** welcomed all States Members of the United Nations, including States that had not yet ratified the Convention. He said that the Committee hoped that they would proceed with the ratification procedure as soon as possible. The Committee's Chair was regrettably absent because she was attending the annual meeting of the Chairs of human rights treaty bodies at United Nations Headquarters in New York. She would undoubtedly urge the organizers to avoid holding meetings that overlapped with the sessions of human rights treaty bodies.

2. **Mr. Foradori** (Argentina) said that Argentina and France co-chaired the Group of Friends of the Convention and had been committed to the universal ratification of the Convention since its adoption by the General Assembly in 2006 and its entry into force in 2010. They were about to launch a second universalization campaign.

3. Significant progress had been made by the Committee in promoting the effective implementation of the Convention in States parties, and the Conference of States Parties held on 19 December 2016 had decided by consensus that the Committee should continue to monitor the Convention. The President of the General Assembly had organized a high-level meeting on the Convention on 17 February 2017.

4. Argentina reiterated its support for the objective set by the Office of the United Nations High Commissioner for Human Rights (OHCHR) of doubling the number of ratifications of the Convention within five years. It also endorsed the principle that States should not remain indifferent to situations involving enforced disappearance that occurred in different parts of the world.

5. **Ms. Shino** (Japan) said that her country shared the aspiration to see the number of States parties to the Convention increase, since the issues it addressed constituted a global concern. Japan regularly recommended to States appearing before the Universal Periodic Review Working Group that they should ratify the Convention. One State had, in response, drawn attention to ratification difficulties that required clarification. Japan had also faced certain challenges during the ratification process, such as how to identify the crime and define its substance. It would be useful if the Committee were to produce guidelines on overcoming such challenges and on good practices for States contemplating ratification of the Convention. She assumed that States parties' reports frequently highlighted the benefits that could be derived from ratification of the Convention. A summary of such benefits by the Committee could be invoked in support of additional ratifications.

6. **Ms. Petit** (France) said that the Group of Friends of the Convention, which also included Japan and Morocco, was very active in raising awareness of the Convention among States. She requested the Committee's advice and assistance in that regard. As the OHCHR goal of doubling the number of ratifications within five years was highly ambitious, she supported the request for good practice guidelines.

7. Noting that the goal of streamlining the treaty bodies' work was impeded by budgetary constraints, she asked whether the Committee perceived any opportunities for arranging meetings, in addition to the annual meeting of the Chairs, in order to study good practices, coordinate working methods and develop a common legal framework to streamline the system. She also wished to know whether budgetary constraints impeded the translation of texts required by the Committee prior to planned discussions of the content.

8. **Mr. Ahouga** (Morocco) said that the Convention lacked visibility and created a sense of confusion and apprehension in Member States. More determined action should be taken to promote universal ratification. As a member of the Group of Friends of the Convention, Morocco strongly supported that goal. He requested advice from the Committee on how to enhance the visibility of the Convention and add momentum to the ratification process.

9. **Mr. Gayol** (Mexico) said that, in December 2017, his country had enacted a law against enforced disappearance which fully complied with the Convention. The guidance provided by the Committee had proved extremely useful in drafting the legislation and Mexico trusted that it would continue to support the implementation of the law through a fruitful interactive dialogue.

10. **Mr. Decaux** said that only 58 States had ratified the Convention since its entry into force. Vigorous action was therefore required to attain over 100 ratifications by the deadline set by OHCHR. The Committee was operating effectively in a positive environment. It had received almost 500 urgent action requests and had considered 28 reports submitted by States parties. However, a number of reports were extremely overdue. It was also important to monitor the follow-up given to reports. Pursuant to article 29 (4) of the Convention, the Committee could request additional information on its implementation.

11. He supported the proposal to issue documentation on best practices. Fact Sheet No. 6/Rev.3 had been widely distributed but was now out of date. The OHCHR website provided useful but limited information. For instance, it had failed to provide a link to the high-level meeting on the Convention organized by the President of the General Assembly.

12. The International Institute of Human Rights (Fondation René Cassin) had organized an International Seminar on Enforced Disappearances at the Council of Europe on 27 February 2018 with a view to raising awareness of the Convention. A subregional seminar had been organized in Tunis five years previously by the Organisation Internationale de la Francophonie and OHCHR on behalf of States parties planning to prepare reports for submission to the Committee. It would be useful if additional events of that nature could be organized.

13. As no meetings of human rights treaty bodies were scheduled for June 2018, it would have been preferable to convene the meeting of Chairs during that month. Furthermore, the Committee had held an extremely useful meeting each year with the Working Group on Enforced or Involuntary Disappearances but there was no overlapping session during the current year. Meetings with the Committee against Torture would also greatly contribute to the sharing of expertise. The two treaty bodies might even decide to focus on certain issues in order to avoid overlapping.

14. **Mr. Ayat** said that a dynamic strategy was required to persuade States to ratify the Convention and to enhance its visibility. As enforced disappearance was an international crime, States should be encouraged to ratify the Convention in order to prevent enforced disappearances in other countries. The Committee had engaged in a productive dialogue with a State party for which enforced disappearance was not a real problem, but which had ratified the Convention out of a sense of solidarity with victims and with States in which such problems existed and could evolve into a crime against humanity. Furthermore, States in which there were virtually no cases of enforced disappearance should be encouraged to take preventive action, since such offences could become widespread in the event of an armed conflict or the establishment of a dictatorship.

15. **Mr. Ravenna** said that no State, however democratic and respectful of human rights, was entirely devoid of individual cases of enforced disappearance. Universal ratification of the Convention was a vital and legitimate goal, but it was difficult to achieve. When the Convention had been opened for signature in 2006, 96 States had signed it, but only 58 of them had as yet concluded the ratification process. They might, of course, be amending their domestic legislation prior to ratification. The call for a doubling of ratifications of the Convention had been issued in February 2017, but only one new State had ratified it since then.

16. **Mr. Teraya** said that campaigns such as that for doubling of the number of ratifications usually produced a stronger impact in the early stages, but that had unfortunately not been the case with the Convention. States parties should be encouraged to bring pressure to bear on States with which they had historical, political and economic ties. For instance, States parties might organize forums with such States, which could also be attended by a member of the Committee.

17. **Mr. Baati** commended the action being taken by the Group of Friends of the Convention to promote its universal ratification. He supported the proposal to issue guidelines on good practices and to update Fact Sheet No. 6/Rev.3. The statement by the representative of Mexico that the Committee's guidance had proved useful in drafting legislation on enforced disappearance demonstrated the importance of the Committee's interactive dialogue with States parties.

18. The issue of coordination and streamlining of the treaty bodies' work was on the agenda of the current meeting of Chairs in New York. However, States were responsible for adopting the requisite resolutions in the General Assembly.

19. **Ms. Galvis Patiño** stressed the importance of publicizing the urgent action procedure aimed at locating disappeared persons. The Committee had produced a leaflet on the subject that should be widely disseminated. As almost 500 urgent action requests had already been received, it was essential to ensure that the necessary human resources were available to address their content. The Committee would appreciate hearing States parties' views on best practices in that regard.

20. **Mr. Figallo Rivadeneyra** said that States should be alerted to the fact that enforced disappearance was a global phenomenon that fell into diverse categories. Universal jurisdiction might be invoked when victims were transferred from one jurisdiction to another. Enforced disappearance was also closely connected to issues of asylum, extradition and migration. Global action was therefore necessary to prevent and counter the phenomenon and to provide compensation for victims.

21. **The Chair** said that prevention of enforced disappearance was a particularly important objective. The continuous increase in urgent action requests reflected a greater awareness of the procedure among victims and human rights defenders, but no corresponding increase in financial and human resources had been forthcoming to date. He therefore appealed to representatives of States to seek ways and means of supporting the vital preventive and humanitarian tasks that needed to be implemented under the Convention.

The meeting was suspended at 11.05 a.m. and resumed at 11.15 a.m.

Meeting with national human rights institutions

22. **Ms. Rose** (Global Alliance of National Human Rights Institutions (GANHRI)) commended the Committee on its engagement with victims of enforced disappearances, their representative organizations and civil society. GANHRI was grateful to the Committee for the attention paid to the role of national human rights institutions. The document on cooperation between the Committee and national human rights institutions (CED/C/6) adopted in 2014 set out concrete procedures for collaboration at all stages of the Committee's work and served as an inspiration for other treaty bodies. GANHRI served as a platform for exchanges with and among national human rights institutions across all regions, including on measures taken to promote ratification and implementation of the Convention and follow-up to the Committee's concluding observations.

23. The National Human Rights Commission of Nepal had hosted an International Conference from 9 to 11 April 2018 on "Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights in South Asia". Various national, regional and international actors had shared experiences and lessons learned, discussed challenges in the region and identified common approaches and joint initiatives to protect and promote human rights. The Conference had been opened by the President of Nepal and the participants had included the Attorney General, the Chairperson of the National Committee on Enforced Disappearances, civil society representatives, victims and their representatives, and representatives of the national human rights institutions of Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka.

24. The Conference had focused on impunity and transitional justice, the challenges faced by human rights organizations working against impunity and the role of national human rights institutions. It had also discussed the challenges posed by national security, the need for security sector reform, and measures to guarantee the safety of migrants,

refugees and asylum seekers. The Conference had concluded with the adoption of the Kathmandu Declaration on Addressing Impunity and Realizing Human Rights in South Asia, which contained clear recommendations to States and an unprecedented road map for closer cooperation among national human rights institutions in the region. The Declaration urged States to ratify the Convention and other international human rights treaties, and underlined the centrality of security sector reform and the need to put an end to extrajudicial executions, disappearances and torture. GANHRI would work closely with its regional network to support implementation of the Declaration.

25. The thirteenth International Conference of National Human Rights Institutions would be co-hosted by the Global Alliance, the national human rights institution of Morocco and OHCHR and would discuss the promotion and protection of human rights defenders, focusing on women and the potential role of national human rights institutions. The space in which human rights defenders operated was under significant pressure, as restrictions on human rights and fundamental freedoms had proliferated. The perpetration of enforced disappearances of human rights defenders was an alarming trend in many regions.

26. The Conference would also examine the links between human rights, development and peace and security, specifically Sustainable Development Goal 16 on peaceful and inclusive societies, access to justice, and accountable and inclusive institutions at all levels. National human rights institutions that fully complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) had been recognized as one of the indicators for measuring State progress towards the achievement of that goal.

27. **The Chair** said that the Committee appreciated the close and continuous cooperation between GANHRI and national human rights institutions (NHRIs). Support for, and recognition of, the independence of such institutions was a key concern for the Committee, as was often reflected in its concluding observations on State party reports.

28. **Mr. Decaux** said that, the previous week, the Committee had officially aligned itself with the initiative related to the Guidelines against Intimidation or Reprisals that the Special Rapporteur on the situation of human rights defenders had proposed to undertake in the margins of the thirtieth annual meeting of the Chairs of the human rights treaty bodies. It could be seen, therefore, that there was a convergence of efforts from the Committee and GANHRI with regard to the promotion and protection of human rights defenders.

29. **Ms. Galvis Patiño** said that it was heartening that the Kathmandu Declaration on Addressing Impunity and Realizing Human Rights in South Asia called explicitly for an end to enforced disappearances, extrajudicial executions and torture.

30. **Mr. Teraya** said that the information submitted to the Committee by non-governmental organizations (NGOs) and NHRIs was crucial and provided a complementary counterpoint to State party reports.

31. **The Chair** said that, in the country reviews that it had conducted to date, the Committee had learned about a wide range of NHRIs with markedly different mandates. He would be interested to know if GANHRI was making any efforts to harmonize the approaches of NHRIs so as to make them more easily comparable.

32. **Ms. Rose** (Global Alliance of National Human Rights Institutions (GANHRI)) said that the GANHRI Subcommittee on Accreditation had developed general observations designed to provide guidance on how to interpret and implement the Paris Principles. One of the aims of the guidance was to ensure a more harmonized application of the Principles at the national and local levels. One general observation concerned NHRIs that had been designated as national preventive mechanisms, and outlined the resources required for them to fulfil their additional mandate effectively and independently. The differences between NHRIs were taken into consideration during the GANHRI accreditation process.

The meeting was suspended at 11.35 a.m. and resumed at 11.40 a.m.

Meeting with non-governmental organizations and other stakeholders

33. **The Chair** invited those present to watch a video prepared by Alkarama that contained testimonies from relatives of victims of enforced disappearance in Iraq.

34. **Mr. Al Hashimi** (Al Wissam Humanitarian Assembly), speaking after the conclusion of the video, said that enforced disappearance was a terrorist crime that had claimed more than 350,000 victims in Iraq since 2003. Many of those victims were being held in secret Iraqi prisons, but, despite the efforts of the Committee and the Working Group on Enforced or Involuntary Disappearances, the Iraqi Government had not disclosed their whereabouts or justified their detention.

35. In the Camp Speicher massacre, more than 4,000 Iraqi soldiers had been killed, injured or abducted and subsequently forcibly disappeared. Some 380 corpses had still not been released for forensic examination. Between 2003 and 2010, around 100,000 Iraqis had been detained by American soldiers. Many had initially been held in facilities under United States control, before being handed over to the Iraqi Government, which had not revealed their whereabouts. Despite the length of time for which those enforced disappearances had lasted, civil society and international organizations had not denounced the Government, preferring instead to believe State officials who never made any mention of the systematic crimes committed by the Government and who served the interests of foreigners intent on fuelling sectarian tensions. He called on the international community to stand in solidarity with Iraq for the sake of the hundreds of thousands of victims of enforced disappearance. A special tribunal should be set up to investigate and prosecute cases in order to end impunity for a crime that constituted a source of pain for the world as a whole.

36. **Ms. Galvis Patiño** said that the Committee was aware of the situation in Iraq thanks to its urgent action procedure. Nevertheless, testimonies from victims and reports from organizations present on the ground were of great value. The Committee was concerned at the information that it had received, as reflected in its concluding observations on the initial report of Iraq (CED/C/IRQ/CO/1). It shared the hope of achieving a world free of enforced disappearance. The first step towards that goal was to document past and present violations and bring them to the attention of the appropriate authorities.

37. **Ms. Bettancourt** (Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM)) said that FEDEFAM was concerned at the enforced disappearances that were being committed in the context of voluntary and involuntary migration worldwide. In Latin America and the Caribbean, it had been observed that economic migrants and displaced persons ran a greater risk of being forcibly disappeared. Since enforced disappearance was a continuous crime, it was essential that the Committee should address both new and ongoing cases.

38. FEDEFAM welcomed the recent operationalization of the Truth Commission of the Plurinational State of Bolivia and called on the Committee and the Government to work together to seek truth, justice and reparations for persons disappeared under the military dictatorship.

39. The situation in Mexico remained deeply troubling. Since 2006, cases of enforced disappearance had become widespread and systematic, without there being any genuine political will in the country to prevent them. Of the 154 victims of politically motivated enforced disappearance over the previous 11 years, close to 70 per cent had been abducted or imprisoned under the current presidency of Enrique Peña Nieto. The enforced disappearance of 43 students from the Ayotzinapa Rural Teachers' College was the most serious mass kidnapping to have occurred in contemporary Mexico, yet the national and international attention that the case had garnered had not resulted in improvements with regard to the impartial investigation of disappearances. The search for victims was almost always left to their relatives, who were the only ones providing evidence in a context of governmental incompetence, while many civilian and military authorities refused to cooperate with investigations.

40. In Argentina, there were concerns over setbacks in the process of remembrance, truth and justice caused by the withdrawal of State funding for programmes on the promotion of truth and for investigations into crimes against humanity. Moreover, the

Supreme Court had yet to reconsider its interpretation, in the *Muiña* case, of Act No. 24,390 (the so-called "2x1 law"), which provided for disproportionately lenient sentences for crimes such as those committed under the military dictatorship of 1976 to 1983. Delays in judicial proceedings related to crimes against humanity were regrettable. The Government should provide courts with the financial resources needed to perform their functions in optimal conditions and thereby enable victims and their families to obtain full redress. It was particularly worrying that house arrest was being used inappropriately by the Argentine justice system as an instrument of impunity.

41. Honduras, meanwhile, should recognize the competence of the Committee and face up to its obligations to investigate cases of enforced disappearance and other serious human rights violations, punish perpetrators and grant full reparation to victims. It should adopt symbolic, legal, economic and political measures to combat impunity and offer guarantees of non-repetition.

42. FEDEFAM urged the Committee to recommend that States should take action to rectify current situations of concern in the interests of protecting all persons from enforced disappearance in Latin America and the Caribbean.

43. **The Chair** said that the Plurinational State of Bolivia had yet to submit its initial report to the Committee. Anything that NGOs could do to incentivize the Government in that regard would be of considerable help. The Committee had not received any urgent action requests related to that country of late, which suggested that there were no recent cases of enforced disappearance there, though it was impossible to know for certain.

44. The Committee had engaged in an interactive dialogue with a delegation from Honduras at the current session and was in the process of drafting its concluding observations on the State's initial report.

45. Regarding Mexico, the Committee was debating how best to follow up on its concluding observations from 2015 (CED/C/MEX/CO/1). The State had submitted a follow-up report (CED/C/MEX/CO/1/Add.1), which the Committee would analyse carefully. More than 300 urgent action requests had been received in relation to Mexico, including in response to the Ayotzinapa case.

46. **Mr. Ravenna**, supported by **Mr. Decaux**, said that he appreciated the presence of FEDEFAM, a long-standing organization that had fought for the establishment of the Convention from as early as 1982 and had participated actively in its drafting. He wished to pay a special tribute to the two-time president of FEDEFAM and former leader of the NGO Madres de Plaza de Mayo Línea Fundadora, Marta Vásquez, who had passed away in November 2017.

47. The Committee was, in many cases, already working along the lines proposed by FEDEFAM, whose concerns it took on board. He welcomed the operationalization of the Truth Commission of the Plurinational State of Bolivia, which had a vital role to play in ascertaining the truth and providing victims with access to justice.

48. **Mr. Decaux** said that NGOs were critical to the effective functioning of the Committee, as their work on the ground helped to trigger the procedures envisaged under articles 30, 31 and 33 of the Convention, among others. The Committee needed the support of the International Coalition against Enforced Disappearances, whose presence was somewhat lacking during the Committee's sessions. Typically, a joint meeting of the Committee and the Working Group on Enforced or Involuntary Disappearances was held in the autumn and had the effect of mobilizing the Coalition and a significant number of NGOs. Even if such a meeting did not take place in 2018, the Coalition had to be visible and contribute to the Convention ratification strategy launched by the High Commissioner for Human Rights.

49. **Mr. Baati** said that the information provided by Alkarama in the video was distressing and should be investigated. He agreed that NGOs had a prominent role to play in the Committee's work, not least because their input helped the Committee to prepare for its discussions with States parties.

50. **Mr. Zeller** (Geneva for Human Rights — Global Training) said that, in March 2017, Geneva for Human Rights had convened an expert seminar together with the Geneva Centre for Security Policy to discuss ways to strengthen the prevention of enforced disappearance and the protection afforded to victims. In September 2017, he had chaired a high-level side event to promote the universal ratification of the Convention.

51. Reacting to the words of previous speakers, he said that enforced disappearance was a long-standing problem in Iraq that had unfortunately been exacerbated by the current situation. He noted the absence of the International Coalition against Enforced Disappearances and expressed the hope that Geneva for Human Rights and FEDEFAM could cooperate closely in the future.

52. He had serious concerns about the framework for, and conditions of, the Committee's work. Despite the appeal launched on 17 February 2017 by the High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, to double the number of ratifications of the Convention within five years, that number was not growing as expected. While the appeal had been welcome, OHCHR ought to have followed it up in its interactions with Member States, instead of leaving the task to States themselves, victims' relatives and coalitions of human rights organizations.

53. Another cause for concern was the paper on treaty body reform published recently by the Geneva Academy of International Humanitarian Law and Human Rights. He disagreed with the proposals put forward in the paper, which focused on the review of State party reports and overlooked all the other tasks that the treaty bodies performed in an effort to ensure the proper implementation of the legal obligations sovereignly accepted by States. The proposal to establish a reporting periodicity of eight years was an insult to victims and their families. The Convention did not provide for a reporting periodicity, a fact of which the authors of the paper seemed to be ignorant. In short, he had doubts about the quality of the paper and concerns that the proposals contained therein would be readily accepted by States that were not committed to the promotion and protection of human rights.

54. The main issue facing the Committee was the insufficient support that it received from the Secretariat, in particular owing to a lack of resources, and the absence of a coherent public relations strategy by OHCHR. The daily press briefings on the Committee's work rarely reached their intended audience, and the often excellent speeches of the High Commissioner for Human Rights tended to overshadow the activities of the treaty bodies and the special procedure mandate holders. How could the Committee hope to promote the ratification of the Convention when almost no one spoke about its work?

55. **Mr. Decaux** said that the Convention was a twenty-first-century instrument that took into account the failings of other treaty bodies and the issue of reporting fatigue. Despite being perfectly clear, article 29 of the Convention was frequently misunderstood by the Chairs of other treaty bodies. It contained no reference to periodic reports, which meant that proposals for a master calendar for the presentation of reports were not suitable for the Committee. Article 29 (4) created the scope for appropriate follow-up and provided a degree of flexibility that was important in preventing States from being overburdened, particularly when, in a given State, there had been no developments of note. On the other hand, the provision implied a higher degree of reactivity when the circumstances demanded it. Reporting periodicity should be determined on a case-by-case basis. Operating with limited resources, the Committee had to prioritize the most pressing issues, an inevitability of which all stakeholders should be aware.

56. The low number of ratifications of the Convention disincentivized some States from submitting reports promptly. For example, the Committee had been awaiting the initial reports of Brazil, Mali and Nigeria for close to a decade. The Committee should perhaps consider the possibility of reviewing the situation in such States in the absence of a report, on the basis of information available from civil society and other sources.

57. **Mr. Baati** said that the Committee had discussed various ways of increasing the number of ratifications of the Convention, including ones that involved drawing on the support of the High Commissioner for Human Rights. The lack of an effective communication strategy was a matter of concern. Undoubtedly, efforts were needed to raise awareness of the Committee's work. The insufficiency of resources was also problematic

and would be on the agenda of the thirtieth annual meeting of the Chairs of the human rights treaty bodies.

58. **Mr. Zeller** (Geneva for Human Rights — Global Training) said that the treaty bodies were fundamental and that States could not call into question the concluding observations of independent experts elected pursuant to conventions that they themselves had ratified. The authors of the paper on treaty body reform published by the Geneva Academy of International Humanitarian Law and Human Rights, who had self-identified as academics, had not consulted civil society and had barely spoken to experts. The paper did not take a human rights-based approach and was not centred on victims, whose rights were the core concern of the Convention.

59. **Mr. Ayat**, speaking in Arabic, said that it was wonderful to be able to express himself in his mother tongue and that it would be good to have the opportunity to do so at all the meetings of the Committee. The importance of the contribution of NGOs to the promotion and protection of human rights could not be overstated. Their input had been invaluable to him in his role as Independent Expert on the situation of human rights in Côte d'Ivoire and had been instrumental in the establishment of the International Criminal Court. He encouraged all NGOs to carry on their vital work on the ground and to play their part in boosting the number of ratifications of the Convention through measures at the individual State level and at the regional level.

60. **The Chair** said that the meeting had been very enriching. The Committee benefited greatly from receiving feedback, particularly constructive criticism. If and when resources permitted, it might be worth allocating more time to such meetings, in view of the many issues raised that warranted more detailed consideration.

The meeting rose at 12.50 p.m.